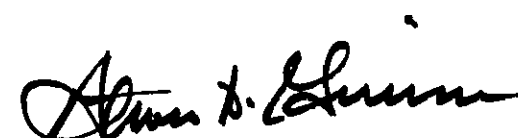


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Attorneys for Plaintiffs

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

PHUC LE and MAI HUYNH, individually  
(formerly ELENA MORALES); CECIL  
MOORE JR, individually; CHRISTINA  
NARDACCI, individually; ALFONSO  
RAMIREZ, individually; WILSON  
REVOCABLE FAMILY TRUST; ANTONIO  
and ROSITA FERRER, individually; ALFONSO  
C. IBE JR. and MAGDALENA D. IBE,  
individually; WARREN and YOLANDA M.  
JOSHUA, individually; JOSE A. and TERESA  
M. LOPEZ, individually; LARRY AND VICKIE  
MCCOY TRUST; AROS AND LULA  
MOUTON LIVING TRUST; DOUGLAS S. and  
LAURIE A. PARR, individually; CATHERINE  
G. POPE TRUST; ALLEN M. QUON and GAIL  
L. WRIGHT, individually; TIMOTHY J. WEBB  
and JACQUELINE R. WEBB, individually;  
NANCY WILSON, individually; and HOSSEIN  
Z. MEHRJARDI REVOCABLE LIVING  
TRUST,

Plaintiffs,

v.

GREYSTONE NEVADA, LLC, a Delaware  
Limited Liability Company; U.S. HOME  
CORPORATION., a Delaware Corporation;  
CAMPBELL CONCRETE OF NEVADA, INC.,  
a Nevada Corporation; EAGLE PLASTERING,

CASE NO. A-13-692679-D

DEPT. NO. XVI

**PLAINTIFFS' SECOND AMENDED  
CONSTRUCTION DEFECT COMPLAINT**

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INC. DBA SUNDANCE PLASTERING, a  
 Nevada Corporation; INTERSTATE  
 PLUMBING AND AIR CONDITIONING,  
 INC., a Nevada Corporation; LUKESTAR  
 CORPORATION DBA CHAMPION  
 MASONRY, a Nevada Corporation; METRO  
 ELECTRIC, a Nevada Corporation; PACIFIC  
 STUCCO, INC., a Nevada Corporation; RED  
 ROCK MECHANICAL, LLC, a Nevada Limited  
 Liability Company; REPUBLIC ELECTRIC,  
 INC., a Nevada Corporation; RISING SUN  
 PLUMBING, LLC, a Nevada Limited Liability  
 Company; SACRAMENTO INSULATION  
 CONTRACTORS DBA GALE BUILDING  
 PRODUCTS, a California Corporation; SIERRA  
 AIR CONDITIONING, INC., a Nevada  
 Corporation; SILVER STATE CONCRETE  
 COMPANY, INC., a Nevada Corporation; SUN  
 CITY LANDSCAPES & LAWN  
 MAINTENANCE, INC., a Nevada Corporation;  
 UNIQUE-SCAPE AND DESIGN, a Nevada  
 Corporation; VALENTE CONCRETE, LLC, a  
 Nevada Limited Liability Company and DOES  
 16 through 500, inclusive,

Defendants.

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT PLAINTIFFS hereby file this SECOND AMENDED CONSTRUCTION DEFECT COMPLAINT pursuant to the ORDER GRANTING PLAINTIFFS' MOTION FOR LEAVE TO FILE SECOND AMENDED COMPLAINT TO ADD PLAINTIFFS that was filed with the above-entitled Court on September 2, 2015. This Second Amended Construction Defect Complaint is being filed in order to add Plaintiffs, amend the caption to reflect dismissed and added Plaintiffs, and correct errors in the First Amended Construction Defect Complaint.

### **COMPLAINT FOR DAMAGES**

Comes Now Plaintiffs, PHUC LE and MAI HUYNH, individually; CECIL MOORE JR, individually; CHRISTINA NARDACCI, individually; ALFONSO RAMIREZ, individually;

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WILSON REVOCABLE FAMILY TRUST; ANTONIO and ROSITA FERRER, individually; ALFONSO C. IBE JR. and MAGDALENA D. IBE, individually; WARREN and YOLANDA M. JOSHUA, individually; JOSE A. and TERESA M. LOPEZ, individually; LARRY AND VICKIE MCCOY TRUST; AROS AND LULA MOUTON LIVING TRUST; DOUGLAS S. and LAURIE A. PARR, individually; CATHERINE G. POPE TRUST; ALLEN M. QUON and GAIL L. WRIGHT, individually; TIMOTHY J. and JACQUELINE R. WEBB, individually; NANCY WILSON, individually; and HOSSEIN Z. MEHRJARDI REVOCABLE LIVING TRUST (hereinafter “Plaintiffs”), by and through their attorneys, Duane E. Shinnick, Esq., and Bradley S. Rosenberg, Esq. of the law firm of SHINNICK, RYAN & RANSAVAGE P.C., and for causes of action against Defendants, and each of them, allege and complain as follows:

### **GENERAL ALLEGATIONS**

1. Plaintiffs are owners of individual residences within the housing developments known as SEVILLE/BEL ETAGE in North Las Vegas, Nevada, more specifically described as residences in the subdivision of ALIANTE NORTH PARCEL 19 as recorded with the Clark County Recorder in Plat Book 119, page 28.

2. Pursuant to NRS 40.600 through 40.695 inclusive, Plaintiffs seek recovery for damages suffered by each unit owner as to their separate interests as delineated by law.

2a. Pursuant to NRS 40.645 Plaintiffs have in good faith attempted to serve written notice on all defendants by certified mail at the addresses listed on the Nevada State Contractors Board records, or at their last known addresses. Plaintiffs have substantially complied with the notice and pre-filing requirements of NRS 40.645.

3. The property and buildings thereupon will hereinafter sometimes be referred to as the “subject property.”

1 4. NOT USED

2 5. The Defendants are identified as follows: Plaintiffs allege that Defendant GREYSTONE  
3 NEVADA, LLC ("Greystone"), a Delaware Corporation, authorized to do business in the State of  
4 Nevada and has conducted and/or now does conduct business within the County of Clark, State of  
5 Nevada, including but not limited to development, construction, improvement, conversion and/or sale  
6 of the subject property.  
7

8 5a. Plaintiffs allege that Defendant U.S. HOME CORPORATION ("U.S. Home"), a Delaware  
9 Corporation, authorized to do business in the State of Nevada and has conducted and/or now does  
10 conduct business within the County of Clark, State of Nevada, including but not limited to  
11 development, construction, improvement, conversion and/or sale of the subject property.  
12

13 5b. Plaintiffs allege that Defendant CAMPBELL CONCRETE OF NEVADA, INC. is a  
14 Nevada Corporation authorized to do business in the State of Nevada and has conducted and/or now  
15 does conduct business within Clark County, State of Nevada, including but not limited to installing  
16 foundations and/or flatworks in the Seville and Bel Etage subdivisions.  
17

18 5c. Plaintiffs allege that Defendant EAGLE PLASTERING, INC. DBA SUNDANCE  
19 PLASTERING is a Nevada Corporation authorized to do business in the State of Nevada and has  
20 conducted and/or now does conduct business within Clark County, State of Nevada, including but not  
21 limited to installing stucco at the Seville subdivision.

22 5d. Plaintiffs allege that Defendant INTERSTATE PLUMBING AND AIR  
23 CONDITIONING, INC. is a Nevada Corporation authorized to do business in the State of Nevada  
24 and has conducted and/or now does conduct business within Clark County, State of Nevada,  
25 including but not limited to providing plumbing and or HVAC in the Bel Etage subdivision.

26 5e. Plaintiffs allege that Defendant LUKESTAR CORPORATION DBA CHAMPION  
27 MASONRY is a Nevada Corporation authorized to do business in the State of Nevada and has  
28 conducted and/or now does conduct business within Clark County, State of Nevada, including but not  
limited to installing masonry block walls in the Bel Etage subdivision.

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1           5f. Plaintiffs allege that Defendant METRO ELECTRIC is a Nevada Corporation authorized  
2 to do business in the State of Nevada and has conducted and/or now does conduct business within  
3 Clark County, State of Nevada, including but not limited to installing electrical in the Seville  
4 subdivision.

5           5g. Plaintiffs allege that Defendant PACIFIC STUCCO, INC. is a Nevada Corporation  
6 authorized to do business in the State of Nevada and has conducted and/or now does conduct business  
7 within Clark County, State of Nevada, including but not limited to installing stucco at the Bel Etage  
8 subdivision.

9           5h. Plaintiffs allege that Defendant RED ROCK MECHANICAL, LLC, is a Nevada Limited  
10 Liability Company authorized to do business in the State of Nevada and has conducted and/or now  
11 does conduct business within Clark County, State of Nevada, including but not limited to mechanical  
12 work performed in Seville subdivision.

13           5i. Plaintiffs allege that Defendant REPUBLIC ELECTRIC, INC. is a Nevada Corporation  
14 authorized to do business in the State of Nevada and has conducted and/or now does conduct business  
15 within Clark County, State of Nevada, including but not limited to installing electrical in the Bel  
16 Etage subdivision.

17           5j. Plaintiffs allege that Defendant RISING SUN PLUMBING, LLC, is a Nevada Limited  
18 Liability Company authorized to do business in the State of Nevada and has conducted and/or now  
19 does conduct business within Clark County, State of Nevada, including but not limited to installing  
20 plumbing in the Seville subdivision.

21           5k. Plaintiffs allege that Defendant SACRAMENTO INSULATION CONTRACTORS DBA  
22 GALE BUILDING PRODUCTS is a California Corporation authorized to do business in the State of  
23 Nevada and has conducted and/or now does conduct business within Clark County, State of Nevada,  
24 including but not limited to installing insulation in the Seville subdivision.

25           5l. Plaintiffs allege that Defendant SIERRA AIR CONDITIONING, INC. is a Nevada  
26 Corporation authorized to do business in the State of Nevada and has conducted and/or now does  
27  
28

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1 conduct business within Clark County, State of Nevada, including but not limited to performing  
2 mechanical and HVAC work in the Bel Etage subdivision.

3 5m. Plaintiffs allege that Defendant SILVER STATE CONCRETE COMPANY, INC., is a  
4 Nevada Corporation authorized to do business in the State of Nevada and has conducted and/or now  
5 does conduct business within Clark County, State of Nevada, including but not limited to providing  
6 concrete materials for the Seville subdivision.

7 5n. Plaintiffs allege that Defendant SUN CITY LANDSCAPES & LAWN MAINTENANCE,  
8 INC., is a Nevada Corporation authorized to do business in the State of Nevada and has conducted  
9 and/or now does conduct business within Clark County, State of Nevada, including but not limited to  
10 installing landscaping in the Seville subdivision.

11 5o. Plaintiffs allege that Defendant UNIQUE-SCAPE AND DESIGN is a Nevada Corporation  
12 authorized to do business in the State of Nevada and has conducted and/or now does conduct business  
13 within Clark County, State of Nevada, including but not limited to installing landscaping in the Bel  
14 Etage subdivision.

15 5p. Plaintiffs allege that Defendant VALENTE CONCRETE, LLC, is a Nevada Limited  
16 Liability Company authorized to do business in the State of Nevada and has conducted and/or now  
17 does conduct business within Clark County, State of Nevada, including but not limited to installing  
18 foundations and/or flatworks in the Bel Etage subdivision.

19 6. Plaintiffs allege that at all times herein mentioned, Defendants, and each of them, were the  
20 agents, servants and employees of each other and were acting in the course and scope of their agency  
21 or employment in doing the acts herein alleged.

22 7. Plaintiffs do not know the true names and capacities of defendants sued herein as Does 16  
23 to 500, including, and therefore sue these defendants by such fictitious names. Plaintiffs are informed  
24 and believe, and thereon allege, that each of the said fictitiously named defendants are responsible in  
25 some manner for the defective and negligent engineering, architecture, construction, supply of  
26 improper materials, and inspection of the subject property single family homes, or in some other  
27  
28

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1 actionable manner were an integral part of the chain of development, construction and marketing of  
2 the subject property single family homes, and that Plaintiffs damages as herein alleged were  
3 proximately caused by their conduct. Plaintiffs pray for leave to amend this Complaint when the true  
4 names and capacities of such defendants are ascertained.  
5

6 8. Defendants Does 16 through 500, inclusive, whether individual, corporate, associate or  
7 otherwise are fictitious names of defendants whose true names and capacities, at this time, are  
8 unknown to Plaintiffs. Plaintiffs are informed and believe and thereupon allege that at all times  
9 herein mentioned each of the defendants sued herein as Does 16 through 500 was the agent, servant  
10 and employee of his or her co-defendants, and in doing the things hereinafter mentioned was acting in  
11 the scope of his or her authority as such agent, servant and employee, and with the permission and  
12 consent of his or her co-defendants; and that each of said fictitiously named defendants, whether an  
13 agent, corporation, association, or otherwise, is in some way liable or responsible to the Plaintiffs on  
14 the facts hereinafter alleged, and caused injuries and damages proximately thereby as hereinafter  
15 alleged. At such time as defendant's true names become known to Plaintiffs, Plaintiffs will ask leave  
16 of this Court to amend this Complaint to insert said true names and capacities.  
17  
18

19 9. Plaintiffs have discovered defects and damages within the periods of the applicable statutes  
20 of limitations that the subject property has and is experiencing defective conditions, in particular,  
21 there are damages stemming from, among other items, defectively built roofs, leaking windows, dirt  
22 coming through windows, drywall cracking, stucco cracking, stucco staining, water and insect  
23 intrusion through foundation slabs, and other poor workmanship.  
24

25 It was the result of the representations by Defendants that they would repair the defects and  
26 their conduct in so performing some works of repair, as well their proposals for correcting the defects  
27 that induced Plaintiffs to withhold conducting their own independent investigation and/or filing suit  
28

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1 against said Defendants. By virtue of the fact that Defendants were the developers, contractors and  
2 sellers of the subject property and aware of the particular nature of the project, including its design,  
3 composition, and component parts, and when said Defendants represented that Defendants would  
4 repair the defects and, in fact, some works of repair were commenced, Plaintiffs were justified in  
5 relying on said representations and conduct by said Defendants in permitting them to investigate and  
6 repair the defects. As a result of Defendants' conduct, Plaintiffs' obligation to commence an action  
7 against Defendants for the defects and/or damages set forth above was tolled pursuant to NRS 40.668  
8 and NRS 40.695.  
9  
10

11 On numerous occasions Defendants represented to Plaintiffs that the defective systems and  
12 materials were not inadequate, and that repairs had been successfully performed thereby inducing  
13 reasonable reliance thereupon by Plaintiffs that conditions were not in need of repairs, therefore,  
14 Defendants are estopped from asserting any potentially applicable statutes of limitations. Damage  
15 has also occurred at various times in the past, including progressive damage.  
16

17 10. Within the last year, Plaintiffs have discovered that the subject property has and is  
18 experiencing additional defective conditions, in particular, there are damages stemming from, among  
19 other items, defectively built roofs, leaking windows, dirt coming through windows, drywall  
20 cracking, stucco cracking, stucco staining, water and insect intrusion through foundation slabs, and  
21 other poor workmanship which would extend the statute of limitations an additional two (2) years  
22 pursuant to NRS 11.203(2).  
23

24 ///

25 ///

26 ///

27

28

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**FIRST CAUSE OF ACTION**

**(Breach of Contract and Breach of Express Warranties as Against  
Defendants Greystone and U.S. Home, and Does 16 through 500)**

11. Plaintiffs reallege and incorporate by reference paragraphs 1 through 10 of the Complaint as though fully set forth herein.

12. On or about various dates commencing in 2005, and continuing thereafter in the County of Clark, State of Nevada, the Plaintiffs and each of them or their predecessors in interest, entered into contracts in writing with Defendants for the purchase from said Defendants of one or more of the units in the subject property.

13. At the time of negotiations of said contracts, but before said contracts were executed between the Plaintiffs and/or their predecessors in interest and said Defendants, as an inducement to the Plaintiffs and/or their predecessors in interest to purchase said units, and as a part of the basis of the bargain of the parties that culminated in the making of the contracts, said Defendants expressly warranted to Plaintiffs and/or their predecessors in interest that said units were constructed in conformity with the applicable building codes and the specific codes and regulations of Clark County, the approved plans and specifications, and that said structures were and are sound and safe, and would remain so.

14. The Plaintiffs purchased said homes in reliance on the express warranties, affirmations of fact, and promises made by Defendants. Plaintiffs, and each of them, have duly performed all the conditions and covenants of said contracts on their part to be performed.

15. Certain Plaintiffs and/or homeowners of the subject property, notified Defendants of said breach of contract and breach of warranties, and said Defendants have refused, and continue to refuse, to remedy these defects.

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1           16. As a direct and proximate result of the breach of the express warranties (written and oral)  
 2 by Defendants, and each of them, as herein above alleged, Plaintiffs suffered damages stemming  
 3 from, among other items, defectively built roofs, leaking windows, dirt coming through windows,  
 4 drywall cracking, stucco cracking, stucco staining, water and insect intrusion through foundation  
 5 slabs, and other poor workmanship.  
 6

7           17. Plaintiffs have suffered damages in an amount not fully known, but believed to be within  
 8 the jurisdiction of this Court in that they have been and will hereafter be required to perform works of  
 9 repair, restoration, and construction to portions of the structures to prevent further damage and to  
 10 restore the structures to their proper condition. Plaintiffs will establish the precise amount of such  
 11 damages at trial, according to proof.  
 12

13           18. Plaintiffs are entitled to all damages set forth at NRS 40.655.  
 14

## 15           **SECOND CAUSE OF ACTION**

### 16           **(Breach of Implied Warranties-Third Party Beneficiary**

### 17           **as Against All Defendants, and Does 16 through 500)**

18           19. Plaintiffs reallege and incorporate by reference paragraphs 1 through 18 of the Complaint  
 19 as though fully set forth herein.  
 20

21           20. Plaintiffs are informed and believe and on that basis allege that Defendants and Doe  
 22 defendants other than GREYSTONE NEVADA, LLC and/or U.S. HOME CORPORATION entered  
 23 into contracts with these entities to perform certain services or work with regard to the design,  
 24 construction and inspection of construction of the residences at the subject property. Plaintiffs and/or  
 25 their predecessors in interest were third party beneficiaries of each and every such contract.  
 26

27           21. Further, said Doe defendants by entering into said contracts with GREYSTONE  
 28 NEVADA, LLC and/or U.S. HOME CORPORATION and/or Plaintiffs and/or their predecessors in

1 interest, impliedly warranted that said homes would be of good and merchantable quality and would  
2 be at least a quality as would be fit for the ordinary purpose for which such homes were to be used  
3 and would be habitable. Further, said Doe defendants impliedly warranted the quality of construction  
4 of the homes and common areas as provided in NRS 116.4114.  
5

6 22. The Plaintiffs purchased their homes in reliance on the implied warranties and promises  
7 made by Doe defendants, and each of them. Plaintiffs have duly performed all of the covenants and  
8 conditions of said contracts on their part to be performed.  
9

10 23. Certain Plaintiffs and/or Homeowners at the subject property have notified Doe  
11 defendants of said breach of implied warranties and said Doe defendants have refused and continue to  
12 refuse to remedy these defects.

13 24. As a direct and proximate result of the breach of the implied warranties by Doe  
14 defendants and each of them as herein above alleged, Plaintiffs suffered damages stemming from,  
15 among other items, defectively built roofs, leaking windows, dirt coming through windows, drywall  
16 cracking, stucco cracking, stucco staining, water and insect intrusion through foundation slabs, and  
17 other poor workmanship. Numerous additional defective conditions exist as more particularly  
18 described in Plaintiffs' expert reports. Plaintiffs are presently unaware of the precise amount of  
19 damages, but will establish the same at trial according to proof, and in accordance with NRS 40.655.  
20  
21

### 22 **THIRD CAUSE OF ACTION**

23 **(Negligence and Negligence per se as to All Defendants,**

24 **and Does 16 through 500)**

25 25. Plaintiffs reallege and incorporate by reference paragraphs 1 through 24 of the Complaint  
26 as though fully set forth herein.  
27  
28

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1           26. Plaintiffs allege that Defendants, and each of them, knew or should have known that if the  
2 subject structure and subject premises were not properly or adequately designed, engineered,  
3 marketed, supervised and/or constructed, that the owners and users would be substantially damaged  
4 thereby, and that the subject structures would be defective and not of merchantable quality.

5  
6           27. Plaintiffs allege that the Defendants, and each of them, named herein were under a duty to  
7 exercise ordinary care to avoid reasonably foreseeable injury to users and purchasers of the subject  
8 premises and structures, and knew or should have foreseen with reasonable certainty that purchasers  
9 and/or users would suffer the monetary damages set forth herein, if said Defendants, and each of  
10 them, failed to perform their duty to cause the subject premises and subject structures to be designed,  
11 engineered and completed in a proper and workmanlike manner and fashion.

12  
13           28. Said Defendants, and each of them, breached their duty owed to Plaintiffs, failed and  
14 neglected to perform the work, labor and services properly or adequately in that each said Defendants  
15 so negligently, carelessly, recklessly and in an unworkmanlike manner designed, constructed and  
16 inspected the subject property and performed the aforesaid work, labor and/or services, such that the  
17 subject premises and subject structures as described herein were designed, engineered and/or  
18 constructed improperly, negligently, carelessly and/or in an unworkmanlike manner, thereby  
19 breaching the duty owed to Plaintiffs. Further, Defendant sellers knew or should have known that the  
20 premises were constructed in an unworkmanlike manner.

21  
22  
23           29. Defendants' negligence alleged above includes the failure to meet the applicable building  
24 codes and ordinances which were in effect. Plaintiffs' members and their predecessors in interest  
25 were members of the class of persons which the building codes and ordinances were designed to  
26 protect. Such violations are negligence per se on the part of Defendants, and each of them.

30. As a direct and proximate result of the foregoing negligence and negligence per se, carelessness and unworkmanlike conduct, actions and/or omissions by said Defendants, and each of them, Plaintiffs have suffered damages in an amount in excess of \$10,000.00. Plaintiffs are presently unaware of the precise amount of damages needed in order to correct the defective conditions of the subject property and subject structures, but will establish the same at trial according to proof.

31. Plaintiffs are also entitled to the damages set forth at NRS 40.655.

#### **FOURTH CAUSE OF ACTION**

#### **(Breach of Implied Warranty of Habitability as Against All Defendants, and Does 16 through 500)**

32. Plaintiffs reallege and incorporate by reference paragraphs 1 through 31 of the Complaint, as though fully set forth herein.

33. All Defendants each impliedly warranted that said homes would be of good and merchantable quality, would be habitable, and would be completed in a workmanlike manner. Further, said Defendants impliedly warranted the quality of construction of the homes and common areas as provided in NRS 116.4114.

34. The Plaintiffs purchased their homes in reliance on the implied warranties and promises made by Defendants, and each of them. Plaintiffs have duly performed all of the covenants and conditions of said contracts on their part to be performed.

35. Certain Plaintiffs and/or Homeowners at the subject property have notified Defendants of said breach of implied warranties and said Defendants have refused and continue to refuse to remedy these defects.

36. As a direct and proximate result of the breach of the implied warranties by Defendants and each of them as herein above alleged, Plaintiffs suffered damages stemming from, among other items,

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defectively built roofs, leaking windows, dirt coming through windows, drywall cracking, stucco cracking, stucco staining, water and insect intrusion through foundation slabs, and other poor workmanship. Plaintiffs are presently unaware of the precise amount of damages, but will establish the same at trial according to proof.

**WHEREFORE, Plaintiffs pray for judgment against Defendants, and each of them, as follows:**

1. For general and special damages in excess of \$10,000.00 including but not limited to, costs of repair, loss of market value, loss of use, loss of investment and out-of-pocket expenses to be determined at time of trial;
2. For damages in an amount according to proof;
3. For reasonable attorneys fees and costs according to proof.
4. For prejudgment and post-judgment interest on all sums awarded, according to proof at the maximum legal rate;
5. For all damages pursuant to NRS 40.600 through 40.695; in particular 40.650 and 40.655;
6. For costs of suit incurred;
7. For such other and further relief as the Court may deem just and proper.

DATED this 2<sup>nd</sup> day of September, 2015.

SHINNICK, RYAN & RANSAVAGE P.C.

By: /s/ Bradley S. Rosenberg

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